1947

File No. B. Consolidation of Holdings / 47

Legal **DEPARTMENT**

B **BRANCH**

Subject:— A Bill to provide for the consolidation of Holdings

L. A. Bill No XVIII of 1946

Bom. Act No ∓ LXII of 1947

1.76/E

File No. B. Consolidation of Holdings / 47

Std. Scott. Slip 24-B

582-B

Office of the R.L.A.

The proposed legislation is necessary for the purpose of consolidation of the holdings of agricultural lands.

2. As regards the Memorandum of Instructions set out by R.C.C., it would clearly be inadequate on the footing that the "noting in R.D. has assumed a closer following of the C.P.Act than is likely" as stated in R.C.C.'s note. If departures from the C.P.Act are intended, it is necessary for the R&D. to examine them in detail and indicate its intendments precisely. This is of course best done by furnishing R.L.A. with a departmental draft of the Bill. On the footing however that the C.P.Act is not to be materially departed from, the following points could appear to require further clarification from R.D.:-

(i) The C.P.Act (section 6) defines a permanent holder. The R.C.C. doubts (p. 123) whether reference to a permanent holder is necessary. Clause 5 of the Bill "prepared for tactical purposes" defines a permanent holder to include occupant, superior holder and permanent tenant of land held by him. If reference to permanent holder is not necessary, R.D. should decide whether the Bill should not apply to owners as being the persons primarily interested and so as to exclude mortgagees without possession who have only a fluctuating interest in the property. (Cf. the amendments made in Part II of Bill No. XVI of 1937, and also section 2(4) of the Bombay Land Improvement Schemes Act, 1948 (Bom. XXVIII of 1948) and section 2(3) of Bombay Irrigated Crop Regulation Act, 1944).

(ii) Section 6(2) of the C.P.Act provides for not less than one-half of holders holding not less than two-thirds of the occupied lands. Clause 6(2) of the draft Bill provides for not less than one-half of the holders holding not less than one-half of the occupied lands. R.D. should settle the proportion of the land to be held by owners before a consolidation scheme is proceeded with. (Cf. section 9 of the Land Improvement Schemes Act, which provides for holding of 66⅔ which is proposed to be reduced to 33⅓ in the amending Bill)

18/6.

(iii) R.D. should decide whether the Crown where it is the owner of land as or is not ot be included in this percentage.

(iv) The further provision (1) suggested by R.C.C. at page 122 is not quite clear. Is compulsory consolidation to be proceeded with in special cases on the lines of section 25 of theLand Improvement Schemes Act or is consolidation to be proceeded with even without the agreement of the necessary percentage of owners holding thenecessary percentages of the lines of section 9(1), proviso, of that Act?

(v) Section 6(1) of the C.P.Act provides for applications being made to the Consolidation Officer. The consolidation Officer is to be appointed for a district or districts. Unless therefore, a Consolidation Officer is to be appointedfor all districts, R.D. might consiidr whether the applications might not more suitable lie to the Collector. The point needs clarification with reference to clause 7 of the Bill on page 98 ante.

(vi) Section 10(3) of the C.P.Act provides that the scheme may mak provide for payment of compensation in cases where any holder gets land of a less market value than that which he held previously. Under sect on 299 of the Government of India Act, 1935, this provision will have to be made compulsory. Provision will also have to be made either for fixing the amount of compensation in such cases or specifying the principles on which, and the manner in which, it is to be determined as required by subsection (2) of section 299. R.D. should settle this point.

(vii) <u>The second additional provision suggested by R.C.C. at page 122.</u> - It is not clear whether this payment is to be a made by Government to the personconcerned or towards the cost of consolidation, that is to say, payment to be taken into account by the Consolidation Officer for working out the balance of the cost to be recovered from the owners.

(viii) R.D.should consider whether the consolidation and

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redistribution of land may not affect the assessment thereon and provision for reassessment may not be necessary; incidentally also the question of the settlement guarantee.

(ix) In connection with clauses 18 and 22 of the Bill at pages 100-101, provision will have to be made for transferring or staying the execution proceedings started upon decree, on the lines of the provision made in respect of all applications and proceedings pending before a revenue court under Chapter IX of the Land Revenue Code, the Mamlatdar's Courts Act and the Bombay Tenancy Act.

(x) It may be clarified if clauses 18 and 27 of the Bill at pages 100-101 are intended to bar civil suits relating to land altogether. Are parties to be deprived of their regular civil remedy because an officer decides possession under clause 18(2)(b) ?

(xi) Since land is to be taken over from one owner and given to another, R.D. might consider whether it would not be advisable on the lines of clause 73 of the Bill of 1937 to provide that on the date of the scheme coming into force the land shall be deemed to vest in Government as if it had been acquired under the Land Acquisition Act, 1894 and then re-allot it to the new owners subject to the right and liabilities to which their original land was subject.

(xii) With regard to the Bombay Small Holders Relief Act, 1938(Bom. VIII of 1938) and Bombay Tenancy Act, 1939(Bom. XXIX of 1939), it is true that section 21 of the C.P.Act provides that the owner shall have the same right in the land allotted to him in pursuance of a scheme of consolidation as he had in his original holding. Since however the Small Holders Relief Act confers certain rights on tenants such as a ban on eviction from land in his possession (section 9) and since the Tenancy Act also confers certain rights on protected and ordinary tenants such as a ban on eviction from land held by him (section 5 and section 17), and lands will be transferred from one to another, saving of those Acts, to that extent appears to override section 22(1) of C.P.Act read with section 1(2).

(xiii) <u>The third additional provision suggested by R.C.C. at page 192:-</u> It is not feasible to combine the roles of the Settlement Officer and the Settlement Commissioner under the C.P.Act in one and the same officer ing view of sections 11(2) and 18(3)(b) of the C.P.Act, where one is an appellate authority over the other.

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U.R. to R.D. No. 505, dated the 17th January, 1945.

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The requisite draft Bill is sent herewith. The clauses of the Bill are generally explained by the references (noted marginally against them) to the R.D. instructions. R.D. is requested to verify if the instructions are fully carried out.

2. Under clause 6 the scheme shall provide for the payment of compensation to an owner who is allotted a holding of less market value etc. Clause 15 provides for any amount of compensation under section 6 being recoverable as an arrear of land revenue. As this provision will enure to the benefit of Government, it is presumed that compensation will be paid in the first instance by Government and then recovered from the owners concerned.

3. The proviso to clause 13(1) suggested by Secretary, R.D. at pages 147-148 requires that if there are two or more owners willing to purchase the reconstituted holding it shall be sold by auction. All these details have been relegated to rules by the insertion of the words "in the prescribed manner" in the proviso to clause 9(2).

4. Clause 10(1) proviso: The provision contained in the concluding portion of clause 13B of Secretary, R.D. at page 149 of assessing land given up from roads or any other public purpose has been cut out. It is not feasible to ~~ex~~ extinguish public rights in land used as roads or for any other public purpose save by specific legislation.

5. Clauses 17 and 18 refer to the continuance of consolidation proceedings. It is not clear when the consolidation proceedings end. R.D. might examine the point further and ~~xxx~~ decide whether they should end after a scheme has come into force under clause 9(3) or whether after the Record of Rights has been prepared under clause 11.

6. Clause 19 has been amplified on the lines of clause 20 to provide for an owner having different rights in different parts of the holding allotted to him.

7. R.D. clause 27 has been deleted since jurisdiction of courts is not to be barred.

8. The R.L.A. has done his best in the little time

available and E.D. is requested to see if the Bill suits its purposes. Orders of Government should be taken before E.L.A is next asked to finalise the draft Bill. The vires of the Bill will be examined at the final stage.

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D.E. to E.D., No. 2308, dated the 26th March, 1945.

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A final draft of the Bill incorporating, where necessary the suggestions made by the R.D., is sent herewith. The draft Statement at pages 165-167 as amended is in order.

2. Clause 3 of the Bill has been revised so as to provide for both the cases mentioned in A(R)'s note of 17-4-1945 at page 164 ante. In view of the definition of the word "owner" in clause 2(5) of the Bill Crown lands will be automatic lly excluded from the operation of clause 5; it is not therefore, necessary to specifically exclude the Crown from the operation of that clause as suggested in para. 2(a) of the R.D. note at page 166 ante. As suggested by Secretary, R.D. in para. 2 of his note at page 163 clause 12(revised clause 12) has been amended. Clause 11 of the Bill (revised clause 13)has been amended in view of para. 1(iii) of A(R)'s note at page 164A ante.

3. As desired by Secretary, Revenue Department, in para. 5 of his note at pages 164 -C-164-D clause 13 (revised clause 15) has been amended so as to bring all the concessions admissible at one place. As directed by A(R) (pages 164A and 164D) clause 14 (revised clause 16) has been changed so as to make it clear that all costs except those referred to in clause 15 shall be recovered from the owners. Clause 19(revised clause 20) has been made clearer by using the expression "different kinds of rights"

4. As suggested by R.D. new clauses providing for amalgamation where necessary of roads, streets etc. ~~xxx~~ with holdings in a scheme of consolidation and for power to assign and disassign lands for any public purpose have been inserted in the final draft. (see new clauses 8 and 9). Clause 8 also contains the necessary provision that no claim for compensation on account of the extinction or diminution of the right of public highway over roads, streets etc. shall be entertained. Cf. section 57A of the Bombay Land Revenue Code.

5. The subject-matter of the Bill falls under entries 8,9,20,21 and 39 in List II and entries 4,6,and 18 in List III in the Seventh Schedule to the Government of India Act, 1935. Since clause 18(1)(b) of the Bill is repugnant to the provisions

of the Indian Registrat on Act, 1908, and the Indian Stamp Act, 1899, which are existing Indian laws relating to entries 6 and 15 in the Concurrent Legislative List, and also clauses 11,13,19,20and 21 are repugnant to the Transfer of Property Act which relates to entry 6 in List III it will be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107 of the Government of India Act, 1935 and para. (2) of the Proclamation. Under executive instructions the Bill requires the previous concurrence of the Governor General.

Remembrancer of Legal Affairs.

U.O. to R.D., No. 5413, dated the 23rd July, 1945.

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The Bombay Consolidation of Holdings Bill has been revised after discussing the provisions with the Secretary, Revenue Department. The main changes made in the revised draft are indicated below:-

Clause 2: The definition of "consolidation officer has been amplified so as to include any person authorised by the Provincial Government to perform all or any of the functions of the Consolidation officer.

Clause 5: Sub-clause (1) of this clause has been revised so as to provide that the objections are received from less than 33 per cent. of the owners of land situated in the area specified in the notification under section 3 and owning in the aggregate less than 33 per cent. of such lands. Similar change is made in sub-clause (2).

Clause 6: Secretary, Revenue Department, considers that there should not be any elaborate provision as in clause 8 of the original Bill regarding extinguishing or transferring of rights in roads, streets etc. He thinks that the provisions for extinguishment or transfer of rights in roads, streets etc. should be made on the lines of section 90 of the Bombay Town Planning Act, 1915. There should be no separate provision for inviting object ons as in clause 8 of the original Bill. According to him the provision in revised clause 9 for inviting objections is sufficient. Accordingly clause 8 has been omitted and a new revised clause 6 has been inserted in the Bill.

Clause 7: This clause contains provision for payment of compensation also to persons whose interest or right in road, street or path is extinct or transferred under section, 6.

Clause 10: This clause provides for two cases that is (1) when there are no objections received to the draft scheme or they are entirely removed by the Consolidation Officer, and (2) when the objections survive. In the first case power is given to the Settlement Commissioner, to confirm the scheme and in the second case power is given to the provincial Government either to confirm the scheme or refuse to confirm the scheme. Original clause 12

and 15. It has been decided in the conference at Poona that clauses 12 and 13 should be relegated to rules. Provision has accordingly been made in clause 37(2)(h) and (i) of the revised Bill.

Clause 12: This corresponds to original clause 14. Reference to the Land Revenue Code and other Acts has been omitted and in their place the general word "Law" has been inserted. The provision in the clause that occupant, small-holder tenant shall not be entitled to interfere with any transfer has also omitted as being considered necessary.

Clause 13: This is a new clause. It provides for the granting a certificate to the effect that a holding has been transferred to an owner to whom a holding has been allotted in pursuance of the scheme of consolidation. This clause will take the place of sub-clause (1) of clause 15 of the original Bill. The clause has been agreed to by Secretary, Revenue Department.

Clause 20:- Sub-clause (2) of this clause has been specifically inserted to provide for compensation where the holding to which a lease, mortgage, deed or other incumbrance is transferred is of less market value than that of the original holding. In the absence of such a provision the lessee, mortgagee, creditor or incumbrancer would be put to a loss for no fault of his.

Clause 21: This has been inserted on the instructions of the Secretary, Revenue Department. It provides for the correction of errors etc. The clause is borrowed from the Bombay Town Planning Act (section 45B).

Clause 22: This is a new clause.

It has been decided in the Conference to omit clause 23 of the original Bill. The clause has been accordingly omitted.

Serembrancer of Legal Affairs.

U.R. to R.D., No. 3055, dated the 6th November 1945.

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Office of the R.L.A.

A revised draft Bill as settled in consultation with Secretary, R. D. is sent herewith.

2. The subject-matter of the Bill falls under entries 2, 9, 30, 31, 37, and 39 in List II and entries 4 and 6 in List III in the Seventh Schedule to the Government of India Act, 1935. Since clauses 7, 8, 9, 10, 23, 30, 31, and 32 are repugnant to the provisions of the Transfer of Property Act, which is an existing Indian law relating to entry 6 in List III, it will be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

3. The Bill does not require any sanction/or effect any special responsibility of the Governor under section 52 (1) of the Government of India Act, 1935. The Bill however, requires the previous sanction of the Governor under section 299 (3) of the said Act.

Remembrancer of Legal Affairs.

M.R. to R.D., No. dated the August, 1946.

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The final draft of the Fragmentation (Prevention) and Consolidation of Holdings Bill was handed over to Secretary, Revenue Department, yesterday in Poona, together with all the underlying Revenue Department files.

The proviso to clause 28 of the Bill has been added on the assumption that it is not the intention of the Revenue Department that all applications which could lie under any law, e.g., one under the Tenancy Act for cultivating personally, should be barred even after the scheme has come into force.

Since the extinguishment of the right of public highways may affect persons who are not included in a scheme, it is essential to make some provision on the lines of section 57A of the Land Revenue Code. The necessary provision has been made in clause 17. A separate clause (clause 31) has been added to provide for disputes in regard to the apportionment of compensation determined under sub-section (2) of clause 16 or sub-clause (4) of clause 17 and/or net value realised under sub-clause (4) of clause 21. The question of a portionment will in many cases involve complex questions of law with regard to the rights of various parties which may be affected as a result of a person being given a holding of lesser value, for this would mean that the security for any charge on his property would depreciate it is essential that such questions should be determined by the ordinary Courts.

The subject - matter of the Bill falls under entries 2, 9, 30, 21 and 39 in List II and entries 6 and 8 in List III in the Seventh Schedule to the Government of India Act, 1935. Since ~~[illegible]~~ clauses 21, 28, 29 and 30 are repugnant to the Transfer of Property Act

which is an existing Indian Law relating to entry 8 in List III it will be necessary to reserve the Bill for the consideration of the Governor with reference to section 107 of the Government of India Act, 1935.

The Bill does not attract the special responsibility of the Governor under section 52(1) of the Government of India Act, 1935.

Before the Bill is introduced or moved in the Provincial Legislature it will require the previous sanction of the Governor under sub-section (3) of section 299, and his recommendation under section 82 (3) of the Government of India Act, 1935.

Remembrancer of Legal Affairs.

U.R. to R.D., No. 5681, dated the 15th August, 1946.

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Office of the R.L.A.

Section 299(3) of Government of India Act, 1935, provides inter alia that no Bill making provision for the extinguishment or modification of rights in land shall be introduced or moved in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion. Once the Governor has given his sanction to a Bill under this section it can be introduced or moved in either Chamber of the legislature. It is not therefore necessary to specify in the certificate the Chamber in which the Bill is to be introduced or moved.

Under section 93(3) a Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a Province, cannot be passed by a Chamber unless the Governor has recommended to that Chamber the consideration of the Bill. Such recommendation has to be in addition to the sanction certificate under section 299(3). It will therefore be necessary for the Governor to pass two separate orders under section 93(3) one in respect of the Assembly and the other in respect of the Council.

Two revised draft orders under section 93(3) together with a draft certificate under section 299(3) are sent herewith.

Yours sincerely,

Secretary.

Secretary of Legal Affairs.

U.O. to R.N., No. 435-P, dated the 3rd Sept., 1948.

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GOVERNMENT HOUSE.

Gandeshhind,

Poona. 1946.

I accord sanction under section 299(3) of the Government of India Act, 1935, to the Bombay Fragmentation (Prevention) and Consolidation of Holdings Bill, 1946.

GOVERNOR OF BOMBAY.

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O R D E R.

Revenue Department,

Poona, September, 1946.

No. 1752/45-F. - In exercise of the powers conferred upon him by sub-section (3) of section 88 of the Government of India Act, 1935, the Governor of Bombay is pleased to recommend to the Bombay Legislative Assembly the consideration of the Bombay Fragmentation (Prevention) and Consolidation of Holdings Bill, 1946.

By order of the Governor of Bombay,

Secretary to the Government of Bombay,
Revenue Department.

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ORDER.

Revenue Department,

Poona, September, 1946.

No. 1754/45-F. - In exercise of the powers conferred upon him by sub-section (5) of section 88 of the Government of India Act, 1935, the Governor of Bombay is pleased to recommend to the Bombay Legislative Council the consideration of the Bombay Fragmentation (Prevention) and Consolidation of Holdings Bill, 1946.

By order of the Governor of Bombay,

Secretary to the Government of Bombay,
Revenue Department.

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No. 11471,
Legal Department,
Bombay Castle, 1st December, 1947.

From

P. K. Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay.

To

The Private Secretary to the Governor of Bombay.

Subject:- A Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, the authentic copy of the Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation, which was read for the t ird time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 17th September 1947 and on the 18th October 1947, respectively.

2. The subject-matter of the Bill falls under entries 2, 9, 20, 21 and 39 in List II and entries 4, 6 and 15 in List III in the Seventh Schedule to the Government of India Act, 1935.

3. Since clause 84(3) of the Bill is repugnant to the Indian Stamp Act, 1899, and the Indian Registration Act, 1908, which are existing laws relating to and entries 14 and 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

4. I also forward herewith six copies of each of the items Nos. 1 and to 4 and two copies of itemNo. 5 of the papers noted in the margin.

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1.	Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
2.	Report of the Select Committee together with the Bill as amended by the Select Committee.
3.	Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.
4.	Bill as read for the third time and passed by the Bombay Legislative Council.
5.	Extracts from the proceedings of the Bombay Legislative Assembly dated the 12th, 13th, 14th and 15th February, 11th April, 12th, 13th and 17th September 1947 and of the Bombay Legislative Council dated the 18th October 1947.

I have the honour to be,

Sir,

Your most obedient servant,

Sd./-
Secretary to Government.

Through

The Secretary to the Government of Bombay,

Revenue Department.

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No. P. S. G. - 5773.
Office of the Private Secretary to the Governor.
Government House,
Bombay, 13th December, 1947.

From

L. E. Bagshwe, Esquire, I. C. S.,
Private Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay.

Subject:- The Bombay Prevention of Fragmentation and Consolidation of Holdings Bill, 1947.

Sir,

With reference to the above-mentioned Bill which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 17th September and 18th October 1947, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the President, that as clause 24(2) of the Bill is repugnant to the Indian Stamp Act, 1899, and the Indian Registration Act, 1908, which are existing laws relating to entries 13and 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935, His Excellency the Governor is accordingly pleased, under section 75 of the Government of India Act, 1935, to deddare that he reserves the Bill for the consideration of His Excellency the Governor-General.

Your obedient servant,

L. E. BAGSHAWE,
Private Secretary to the Governor of Bombay.

No. P. S. G. - 5774.
Office of the Private Secretary to the Governor,
Government House,
13th December, 1947.
Bombay,

Copy forwarded with compliments for information to:-

(1) The Secretary to Government, Legal Department, with reference to his letter No. 11471, dated the 1st December, 1947.

(2) The Secretary to Government, Revenue Department, with reference to his endorsement, No. 1754/45-IV-F, dated the 8th December 1947.

By order of the Governor of Bombay,

Private Secretary to the Governor of Bombay.

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D o. PSO. 346.

Government House,

Bombay, 24th January, 1948.

From

L.M.Nadkarni, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department, Bombay.

Subject: The Bombay Prevention of Fragmentation and Consolidation of Holdings Bill, 1947.

Sir,

With reference to the correspondence ending with this office endorsement No. PSO. 5774, dated the 13th December 1947, the above subect, I am directed to infork you that His Excellency the Governor-General has, under the provisions of sub-section (1) of section76 of the Government of India Act, 1935, assented to the Bombay Prevention of Fragmentation and Consolidation of Holdings Bill, 1947, on the 17th January 1948.

2. The authentic copy of the Bill with His Excellency the Governor-General's assent signified thereon is returned herewith.

Your obedient servant,

Private Secretary to the Governor of Bombay.

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BILLS.

A Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

GOVERNMENT OF BOMBAY,
Legal Department.
Resolution No. 533-L
Council Hall, Poona 26th August, 1946.

Memorandum from the Revenue Department No. 1754/45-V, dated the 24th August 1946. - Transferring for necessary action, the papers relating to a Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

RESOLVED:- The Bill with Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 26th August 1946, as Bill No. XVIII of 1946.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette, on the 28th August 1946.

3. The dated of various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Sd./- B. L. CHAUDHARI,
Assistant Secretary to the Government of Bombay,

Legal Department.

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Agis. Publication of the Bombay Prevention of Fragmentation and Consolidation Holdings Act, 1947.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 975.
Bombay Castle, 29th January 1947.

Letter to the Private Secretary to the Governor, No. 11471, dated the 1st December 1947.

Letter from the Private Secretary to the Governor, No. PSG. 346, dated the 24th January 1948:-

"With reference to the correspondence ending with this Office endorsement No. PSG. 5774, dated the 13th December 1947, on the above subject, I am directed to inform you that His Excellency the Governor-General has under the provisions of sub-section (1) of section 76 of the Government of India Act, 1935, assented to the Bombay Prevention of Fragmentaton and Consolidation of Holding Bill, 1947, on the 17th January 1948."

2. The authentic copy of the Bill with His Excellency the Governor-General's assent signified thereon is returned herewith."

RESOLUTION:- The law should be published as Bombay Act No. LXII of 1947, in the Bombay Government Gazette dated the 29th January 1948.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department with reference to the Memorandum from that Department No. 1754/45-F, dated the 24th August 1946.

By order of the Governor of Bombay,

Sd./- S. L. CHOUDHARI.
Assistant Secretary to Government of Bombay.

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Registered No. B-3

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 9TH APRIL 1947.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publications to be reported.]

The following report of the Select Committee of the Bombay Legislative Assembly on the Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation, and the Bill as amended by the Select Committee are, in accordance with the provisions of sub-rule (3) of rule 88 of the Bombay Legislative Assembly Rules, published for general information :—

L. A. BILL No. XVIII OF 1946.

(A Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.)

REPORT OF THE SELECT COMMITTEE.

We, the members* of the Select Committee appointed to consider L. A. Bill No. XVIII of 1946 (A Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation) have the honour to report as follows :—

We have carefully considered the Bill and made a few changes therein. The reasons for the principal changes are given below :—

Clause 1, sub-clause (1).—For the words, brackets and figures "Fragmentation (Prevention) and Consolidation of Holdings Act, 1946", we have substituted the words and figures "Prevention of Fragmentation and Consolidation of Holdings Act, 1947."

Note.—The signatures of Mr. T. S. Jadhav, Mr. B. G. Chowdhari, Mr. P. P. Gokhale, Dr. M. N. Natu and Mr. J. H. Shamshuddin will be notified when received.

Clause 2, sub-clause (8).—We have deleted this sub-clause as we consider it unnecessary.

Clause 2, sub-clause (9).—In order to make the meaning clear, we have provided a new definition of the term "owner".

Clause 2, sub-clause (10).—In view of the revised definition of the term "owner", this sub-clause is unnecessary. It has, therefore, been omitted.

Clause 4, sub-clause (1).—We consider that before settling provisionally "the standard area" in any local area, the Provincial Government should consult the District Advisory Committee appointed by it, as we believe that such consultations are likely to go a long way in reassuring the agriculturists. We have accordingly amended this sub-clause.

Clause 5, sub-clause (1).—As there might be an interval between the date of the publication of the notification under clause 4 (2) in the Official Gazette and in the village concerned, we have inserted the words "publication of" after the words "the date of" and the words "in the village concerned" after the word and figure "section 4" in order to give full three months' time for submitting objections from the date of publication of the notification in the village concerned.

Clause 5, sub-clause (2).—We have deleted the words "as far as possible" from this sub-clause, as we think that the revision of standard areas should in all cases be made in the manner laid down in clause 4 and that no discretion should be left to the Provincial Government in the matter.

Clause 7, sub-clause (1).—The words "another holding" are rather vague. We have, therefore, substituted the words "a contiguous survey number or recognised sub-division of a survey number" for the words "another holding", with a view to removing the vagueness and making the meaning of the sub-clause clearer.

Clause 7, sub-clause (2).—We have amended this sub-clause so as to provide that a fragment shall not be leased to any person other than a person cultivating any land which is contiguous to the fragment.

Clause 8.—We consider that no land in any local area should either be transferred or partitioned so as to create a fragment. We have accordingly amended this clause.

Clause 9.—We have amended this clause so as to provide that the transfer or partition of any land contrary to the provisions of the proposed Act shall be void. We have also provided that the owner of any land so transferred or partitioned shall be liable to pay a fine not exceeding Rs. 250. We have deleted the provision regarding forfeiture of land so transferred or partitioned.

Clause 10, sub-clause (1).—We have substituted the words "owner of a fragment may transfer it to the Crown" for the words "person may transfer a fragment to the crown", because it is the owner and not any person who can transfer the

fragment to the Crown". We have also inserted the words "for the purposes of the Province" after the word "Crown" in both places in order to bring the wording of the sub-clause in line with the wording of section 173 (*1*) of the Government of India Act, 1935.

Clause 11.—We have redrafted this clause with a view to provide that neither partition of an undivided estate assessed to payment of land revenue nor separation of a share thereof shall be made so as to create a fragment.

Clause 12.—In view of the amendment of clause 11, the reference to section 11 in this clause is unnecessary and has therefore been omitted.

Clause 13.—For the words, brackets and figures "Fragmentation (Prevention) and Consolidation of Holdings Act, 1946", we have substituted the words and figures "Prevention of Fragmentation and Consolidation of Holdings Act, 1947". This is merely a consequential change.

Clause 14.—We have amended this clause so as to provide that no land shall be sold at any sale held under the orders of a court so as to leave a fragment.

Clause 16.—In view of the revised definition of the term "owner", the words "or actual holder" occurring in this clause as well as the words "or/and actual holder or holders" in other subsequent clauses are unnecessary. They have, therefore, been omitted.

Clause 17, sub-clause (2).—We think it necessary that the declaration of amalgamation of any road, street, lane or path with any holding in the scheme for the consolidation of holdings should be published in the village concerned. We have accordingly amended this sub-clause.

Clause 21, sub-clause (4).—This sub-clause provides that where an owner fails to deposit the necessary compensation under a scheme for consolidation, his right in such holding may be allotted to any other person who pays the value of the holding, and in that case the value realised, after deducting the expenses, shall be paid to the owner. We think that the amount of the value so realised should be paid not only to the owner but should be distributed among all persons having an interest in the land in such proportion as may be determined in accordance with the provisions of clause 31 (new clause 30).

Clause 24.—We have revised this clause with a view to provide that the certificate of transfer to be granted by the Consolidation Officer to an owner should be registered under the Indian Registration Act, 1908, and that no stamp or registration fee should be payable in respect of such certificate.

Clause 25.—We think that the costs of carrying out a scheme of consolidation should be borne by Government. We have accordingly deleted this clause.

Clause 26.—As the cost of carrying out a scheme of consolidation is to be borne by Government, it will not be necessary to grant any remission of land revenue in respect of lands included in the scheme of consolidation. We have accordingly deleted sub-clause (1) of this clause.

We think that a loan granted to an owner for carrying out any of the purposes of the proposed Act may be recovered from him as a loan either under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884. We have accordingly made the necessary amendment.

Clause 32.—We have omitted sub-clause (*a*) as being unnecessary.

Clause 38.—We have carried out consequential amendments in this clause and other clauses wherever necessary.

(Signed) MORARJI R. DESAI.

(,,) D. N. DESAI.

(,,) K. F. PATIL.

(,,) M. C. VAKIL.

(,,) S. L. PEJE.

(,,) F. T. ZAMINDAR.

(,,) S. M. HASAN.

(,,) V. P. PAWAR.

(,,) R. M. PRABHU.

(,,) BABUBHAI J. PATEL.

Note.—Deletions made by the Select Committee are shown in square brackets and additions are shown in italics.

L. A. BILL No. XVIII OF 1946.

A Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

(As amended by the Select Committee.)

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay [Fragmentation (Prevention) and Consolidation of Holdings Act, 1946.] *Prevention of Fragmentation and Consolidation of Holdings Act, 1947.*

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force in such areas and on such date as the Provincial Government may by notification in the *Official Gazette* direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "agricultural year" means the year commencing on the first day of April;

(*2*) "consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings;

(*3*) "Consolidation Officer" means an officer appointed as such under section 15 by the Provincial Government, and includes any person authorised by the Provincial Government to perform all or any of the functions of the Consolidation Officer under this Act;

(*4*) "fragment" means a plot of land of less extent than the appropriate standard area determined under this Act :

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion

(5) " land " means agricultural land whether alienated or unalienated ;

(6) " local area " means any area notified as such in the *Official Gazette* under section 3 ;

(7) " Mamlatdar " shall include a Mahalkari ;

[(8) " neighbour " in respect of a fragment means the owner of any land which is contiguous to the fragment ;]

[(9) " owner " includes an owner in severalty, in common or joint ;]

(8) " *Owner* " *means in the case of unalienated land the occupant and when such land has been mortgaged, owner means the mortgagor ; in the case of alienated land owner means the superior holder ;*

[(10) " actual holder " means a person in actual possession of land, and includes a privileged occupant as defined in the Khoti Settlement Act, 1880, but does not include a tenant who is not deemed to be a protected tenant under the provisions of the Bombay Tenancy Act, 1939, or a mortgagee in possession ;] [Bom. I of 1880. Bom. XXIX of 1939.]

(9) [(11)] " prescribed " means prescribed by rules made under this Act ;

(10) [(12)] " standard area " in respect of any class of land means the area which the Provincial Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section ;

(11) [(13)] words and expressions used in this Act, but not defined, have the meaning assigned to them in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

CHAPTER II.

Determination of Local and Standard Areas and Treatment of Fragments.

Determination of local area.

3. The Provincial Government may, after such inquiry as it deems fit, by notification in the *Official Gazette*, specify a village, mahal or taluka or any part thereof as a local area for the purposes of this Act.

Settlement of standard areas.

4. (1) The Provincial Government may, after such inquiry as it deems fit *and after consultation with the District Advisory Committee appointed by it*, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(2) The Provincial Government shall by notification in the *Official Gazette* and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (*1*) and invite objections thereto.

Determination and revision of standard areas.

5. (*1*) The Provincial Government shall, after considering the objections, if any, received within three months of the date of *publication of* the notification under sub-section (*2*) of section 4 *in the village concerned* and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(*2*) The Provincial Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (*1*). Such revision shall [as far as possible] be made in the manner laid down in section 4 and sub-section (*1*).

(*3*) The Provincial Government shall, by notification in the *Official Gazette* and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (*1*) or revised under sub-section (*2*).

Entry in the Record of Rights.

6. (*1*) On notification of a standard area under sub-section (*3*) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights, or where there is no Record of Rights in such village record as the Provincial Government may prescribe.

(*2*) Notice of every entry made under sub-section (*1*) shall be given in the manner prescribed for the giving of notice under the Bombay Land Revenue Code, 1879, of an entry in the register of mutations.

Bom. V of 1879.

Transfer and lease of fragments.

7. (*1*) No person shall transfer any fragment in respect of which a notice has been given under sub-section (*2*) of section 6 unless thereby the fragment becomes merged in [another holding.] *a contiguous survey number or recognised sub-division of a survey number.*

[(*2*) No such fragment shall be leased to any person other than a neighbour.]

Bom. XXIX of 1939.

(*2*) *Notwithstanding anything contained in the Bombay Tenancy Act, 1939, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.*

Fragmentation prohibited.

8. No land in any local area shall be transferred *or partitioned* so as to create a fragment.

[Transfer contrary to provisions of Act void].

[**9.** (*1*) The transfer of any land contrary to the provisions of this Act shall be void.

(*2*) Any land so transferred shall be liable to forfeiture.

(*3*) Notwithstanding anything to the contrary contained in any law or contract, no compensation or damages shall be recoverable by any of the parties to such transfer in respect thereof.]

Penalty for transfer or partition contrary to provisions of Act.

9. (1) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(2) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the Provincial Government direct.

Transfer of fragment to Crown.

10. (*1*) Any [person may transfer a fragment to the Crown] *owner of a fragment may transfer it to the Crown for the purposes of the Province* on payment by the Crown of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the Crown *for the purposes of the Province* free from all encumbrances.

(*2*) any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879. Bom. V of 1879.

[Partition of estates paying land revenue to Government.]

[**11.** (*1*) At the partition by the Collector of an estate paying land revenue to Government in any local area for which standard areas have been fixed, he shall so divide the estate as not to create any fragment. If in making the partition it is found that a sharer is entitled to any specific acreage according to his share of the entirety and he cannot be given that full acreage without creating a fragment the sharer shall be compensated in money for such deficiency as may occur in his share. The amount of such compensation and the person by whom it shall be paid shall be determined by the Collector.

(*2*) If there are two or more sharers equally entitled and there is not enough land for all of them, the Collector shall, in the absence of any agreement among them, select by lot as many of the sharers as can be provided with land without creating a fragment, and the rest shall be compensated in the manner described in sub-section (*1*).

(*3*) A person from whom any compensation is due under sub-section (*1*) or (*2*) shall deposit the amount of such compensation in the prescribed manner before his share is allotted to him and on his failure to do so his share shall be auctioned among the other sharers and the compensation amount paid out of the proceeds to the person to be compensated and if there be only one other sharer sold to him :

Provided that in cases where in the opinion of the Collector, the price offered in such auction is not adequate the share shall be sold by public auction.

(*4*) In the case of dispute in the apportionment of compensation between the parties known or believed to be interested in the land, the Collector shall deposit the amount of the compensation in the Court which tried the suit and such Court shall apportion the amount according to law.]

Partition of estate assessed to payment of revenue to Crown or separation of share thereof.

11. *When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the Crown in any local area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment.*

V of 1908.

Determination of compensation for purposes of section 10 [and 11.]

12. In determining the compensation for the purposes of [sections 10 and 11] *section 10* the Collector shall, [so far as practicable,] have regard to the provisions of sub-section (*1*) of section 23 of the Land Acquisition Act, 1894.

1 of 1894.

Amendment of sections 117A and 117B of Bom. V of 1879.

13. In sections 117A and 117B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely :—

"Subject to the provisions of the Bombay [Fragmentation (Prevention) and Consolidation of Holdings Act, 1946,] *Prevention of Fragmentation and Consolidation of Holdings Act, 1947,*"

Bom. V of 1879.

Bom. of 1947.

Provincial Government or local authority not to acquire land so as to leave fragment.

14. Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Provincial Government or any local authority *or sold at any sale held under the orders of any Court* so as to leave a fragment.

CHAPTER III.

Procedure for Consolidation.

Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

15. With the object of consolidating holdings in any village, mahal or taluka or any part thereof for the purpose of better cultivation of lands therein, the Provincial Government may declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication *in the village concerned* the Provincial Government may appoint a Consolidation Officer who shall proceed to prepare in the prescribed manner a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be.

Scheme to provide for compensation.

16. (*1*) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner [or actual holder] who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner [or actual holder] who is allotted a holding of greater market value than that of his original holding.

(*2*) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (*1*) of section 23 of the Land Acquisition Act, 1894.

1 of 1894.

Amalgamation of public roads etc., within scheme for consolidation of holdings.

17. (*1*) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(*2*) The declaration in sub-section (*1*) shall be published *in the village concerned* in the prescribed manner along with the draft scheme referred to in section 19.

(*3*) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (*1*), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(*4*) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the Provincial Government, be final.

Revocation of assignments of lands.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place.

Publication of draft scheme.

19. (*1*) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating

to the scheme. The Consolidation Officer shall, after considering the objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Commissioner.

(2) The Consolidation Officer shall also publish the scheme as amended by him.

Confirmation of scheme.

20. (1) If within thirty days of its publication no objections are received to the draft scheme published under sub-section (1) or the amended draft scheme published under sub-section (2) of section 19, as the case may be, the Settlement Commissioner shall confirm the scheme.

(2) If any objections are received to the amended draft scheme published under sub-section (2) of section 19, the Settlement Commissioner shall, after taking the objections into consideration submit it with such modifications as he considers necessary to the Provincial Government.

(3) The Provincial Government may either confirm the scheme with or without modifications or refuse to confirm it:

Provided that the Provincial Government shall, if the scheme has been modified by the Settlement Commissioner under sub-section (2) publish it as so modified, and take into consideration the objections, if any, received within thirty days of such publication before acting under this sub-section.

Right to possession of new holdings.

21. (1) Upon the confirmation of the scheme under sub-section (1) or (3) of section 20, the scheme as confirmed shall be published in the *Official Gazette* and also in the prescribed manner in the village or villages concerned, and if all the owners [and actual holders] affected by such scheme agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners [and actual holders] affected by the scheme do not agree to enter into possession under sub-section (1) they shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of its publication in the *Official Gazette* under sub-section (1) and the Consolidation Officer shall, if necessary, put them in possession of the holdings to which they are so entitled, and for doing so may in the prescribed manner evict any person from any land.

(3) Notwithstanding anything contained in sub-section (2) no owner [or actual holder] shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner within fifteen days of the

commencement of the said agricultural year such compensation [and such costs of carrying out the scheme] as *is* [are] recoverable from him under the scheme.

(*4*) Where an owner [or holder] fails to comply with the provisions of sub-section (*3*) his right in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner [or actual holder, as the case may be, and where the owner is not the actual holder apportioned between them in such manner as they may agree to] *and any other person having an interest in the holding.*

Coming into force of scheme.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Certain laws no ban on transfer of holdings.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, *or other persons having interest,* [and actual holders in their holdings] shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

Certificate of transfer.

[**24.** The Consolidation Officer shall grant to every owner and actual holder to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (*4*) of section 21, a certificate in the prescribed form to the effect that the holding has been transferred to him in pursuance of the scheme.]

24. (*1*) *The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section* (*4*) *of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908 to the effect that the holding has been transferred to him in pursuance of the scheme.* *XVI of 1908.*

(*2*) *Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.*

[Recovery of costs of scheme.]

[**25.** Subject to any order which the Provincial Government may issue in this behalf, the costs of carrying out a scheme of consolidation shall be recoverable from the owners and actual holders whose holdings are affected thereby, and the Consolidation Officer shall prepare a statement of such costs. The costs shall be assessed in the prescribed manner.]

519

[26. (1) An amount equal to half the land revenue assessment on the lands included in a scheme of consolidation shall be remitted for the three years following the date on which the scheme comes into force. [Concessions to assist consolidation.]

XIX of 1883. (2) For carrying out any of the purposes of the Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883.]

XIX of 1883. *XII of 1884.* *25. For carrying out any of the purposes of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884.* *Loans to assist consolidation.*

CHAPTER IV.

Effect of Consolidation Proceedings and of Consolidation of Holdings.

26 [27]. (1) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15. Exercise by Consolidation Officer of powers under certain Acts. Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

(*a*) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation Officer; and Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(*b*) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it:

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application

could lie under the provisions of any law for the time being in force.

(3) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

Stay of proceedings under sections 153 and 155 of Bom. V of 1879; ban on transfer of land during continuance of consolidation proceedings.

27 [28]. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

(a) no proceedings under section 153 or 155 of the Bombay Land Revenue Code, 1879, in respect of any land in respect of which a notification has been issued under section 15 shall be commenced; and all such proceedings if commenced shall be stayed; Bom. V of 1879.

(b) no person shall transfer any land in respect of which a notification under section 15 has been issued.

Rights in holdings.

28 [29]. Every owner [and every actual holder] to whom a holding is allotted in pursuance of a scheme of consolidation shall have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (4) of section 21.

Transfer of encumbrances.

29 [30]. (1) If the holding of an owner [or actual holder] included in a scheme of consolidation which has come into force under section 22 is burdened with a lease, mortgage, debt or other encumbrance, such lease, mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section [38] 37, appoint; and the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

(2) If the holding to which a lease, mortgage, debt, or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section [31] 30 be entitled to the payment of such compensation by the owner [or actual holder] of the holding, as the case may require, as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any lessee, mortgagee or other encumbrancer entitled to possession into possession of the holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

30 [31]. (*1*) Where there is a dispute in respect of the apportionment of— Apportionment of compensation or net value in case of dispute.

(*a*) the amount of compensation determined under sub-section (*2*) of section 16 or sub-section (*4*) of section 17;

(*b*) the net value realized under sub-section (*4*) of section 21;

(*c*) the total amount of compensation determined under sub-section (*2*) of section [30] *29*,

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may, apply.

I of 1894.

31 [32]. Notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall— Alienation and sub-division of consolidated holdings.

[(*a*) transfer any part of such holding—

(*i*) that is of less extent than the prescribed area;

(*ii*) so as to leave a plot of less extent than the prescribed area;]

(*a*) [(*b*)] transfer any holding or part thereof except in accordance with such conditions as may be prescribed;

(*b*) [(*c*)] except with the permission in writing of the Provincial Government, sub-divide such holding.

32 [33]. (*1*) If after a scheme has come into force it appears to the Provincial Government that the scheme is defective on account of an error, irregularity or informality the Provincial Government shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme. Power to vary scheme on ground of error, irregularity or informality.

(*2*) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the Provincial Government through the Settlement Commissioner.

(*3*) After receiving the objections under sub-section (*2*) the Provincial Government may, after making such enquiry as it may think fit, by notification in the *Official Gazette*, make the variation with or without modifications or may not make any variation.

(*4*) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.

33 [34]. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act, Power to vary or revoke scheme.

CHAPTER V.

General.

Vesting of powers of Settlement Commissioner.

34 [35]. The Provincial Government may, by notification in the *Official Gazette*, invest the Collector with all or any of the powers of the Settlement Commissioner under this Act.

Power of Provincial Government to call for proceedings.

35 [36]. The Provincial Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Appeal and revision.

36 [37]. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Rules.

37 [38]. (*1*) The Provincial Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules, providing for—

(*a*) the manner of publication under sub-section (*2*) of section 4 ;

(*b*) the manner of giving public notice under sub-section (*3*) of section 5 ;

(*c*) village records in which fragments shall be entered under sub-section (*1*)[, and the manner of giving notice under sub-section (*2*),] of section 6 ;

[(*d*) the manner in which compensation shall be deposited under sub-section (*3*) of section 11 ;]

(*d*) [(*e*)] the manner in which the intention to make a scheme shall be published and the manner of preparation of the scheme under section 15 ;

(*e*) [(*f*)] the manner of publication under sub-section (*2*) of section 17 of a declaration made under sub-section (*1*) of the said section ;

(*f*) [(*g*)] the manner in which a draft scheme of consolidation shall be published under sub-section (*1*) of section 19 in the village or villages concerned ;

(*g*) [(*h*)] the manner of publication of a scheme under sub-section (*1*) of section 21, on its being confirmed ;

(*h*) [(*i*)] the manner in which a person may be evicted under sub-section (*2*) of section 21 ;

(*i*) [(*j*)] the manner in which compensation [and costs] recoverable from an owner [or holder] shall be deposited by him under sub-section (*3*) of section 21 ;

(*j*) [(*k*)] the manner in which right of holding may be allotted under sub-section (*4*) of section 21 ;

(*k*) [(*l*)] the form in which a certificate shall be granted under section 24 ;

[(*m*) the manner of assessing under section 25 the costs of carrying out a scheme ;]

(*l*) [(*n*)] the period within which an application shall be made under clause (*b*) of sub-section (*2*) of section [27] *26* ;

(*m*) [(*o*)] the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a lease, mortgage, debt or other encumbrance under sub-section (*1*) of section [30] *29* ;

(*n*) [(*p*)] [the area for the purposes of sub-clauses (*i*) and (*ii*) of clause (*a*) of section 32, and] the conditions in accordance with which holdings may be transferred under clause [(*b*)] (*a*) of [the said] section *31* ;

(*o*) [(*q*)] the manner of publication of a draft variation under sub-section (*1*) of section [33] *32* ;

(*p*) [(*r*)] the manner in which the area and assessment (including water-rate if any) of each reconstituted holding or part of such holding shall be determined ;

(*q*) [(*s*)] the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation ;

(*r*) [(*t*)] generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act ;

(*s*) [(*u*)] any other matter which is to be or may be prescribed.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

S. K. SHEODE,
Secretary to the Bombay
Legislative Assembly.

Bombay, 9th April 1947.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XVIII OF 1946.

A Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

(As read for the third time and passed by the Legislative Assembly on the 17th September 1947.)

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force in such areas and on such date as the Provincial Government may by notification in the *Official Gazette* direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "agricultural year" means the year commencing on the first day of April;

(*2*) "consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings;

(3) " Consolidation Officer " means an officer appointed as such under section 15 by the Provincial Government, and includes any person authorised by the Provincial Government to perform all or any of the functions of the Consolidation Officer under this Act ;

(4) " fragment " means a plot of land of less extent than the appropriate standard area determined under this Act :

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion ;

(5) " land " means agricultural land whether alienated or unalienated ;

(6) " local area " means any area notified as such in the *Official Gazette* under section 3 ;

(7) " Mamlatdar " shall include a Mahalkari ;

(8) " Owner " means in the case of unalienated land the occupant and when such land has been mortgaged, owner means the mortgagor ; in the case of alienated land owner means the superior holder ;

(9) " prescribed " means prescribed by rules made under this Act ;

(10) " standard area " in respect of any class of land means the area which the Provincial Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section ;

(11) words and expressions used in this Act, but not defined, have the meaning assigned to them in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

CHAPTER II.

Determination of Local and Standard Areas and Treatment of Fragments.

Determination of local area.

3. The Provincial Government may, after such inquiry as it deems fit, by notification in the *Official Gazette*, specify a village, mahal or taluka or any part thereof as a local area for the purposes of this Act.

Settlement of standard areas.

4. (1) The Provincial Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(2) The Provincial Government shall by notification in the *Official Gazette* and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

Determination and revision of standard areas.

5. (*1*) The Provincial Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (*2*) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(*2*) The Provincial Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (*1*). Such revision shall be made in the manner laid down in section 4 and sub-section (*1*).

(*3*) The Provincial Government shall, by notification in the *Official Gazette* and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (*1*) or revised under sub-section (*2*).

Entry in the Record of Rights.

6. (*1*) On notification of a standard area under sub-section (*3*) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights, or where there is no Record of Rights in such village record as the Provincial Government may prescribe.

(*2*) Notice of every entry made under sub-section (*1*) shall be given in the manner prescribed for the giving of notice under the Bombay Land Revenue Code, 1879, of an entry in the register of mutations.

Bom. V of 1879.

Transfer and lease of fragments.

7. (*1*) No person shall transfer any fragment in respect of which a notice has been given under sub-section (*2*) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

(*2*) Notwithstanding anything contained in the Bombay Tenancy Act, 1939, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

Bom. XXIX of 1939.

Fragmentation prohibited.

8. No land in any local area shall be transferred or partitioned so as to create a fragment.

Penalty for transfer or partition contrary to provisions of Act.

9. (*1*) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(*2*) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the Provincial Government, direct.

Transfer of fragment to Crown.

10. (*1*) Any owner of a fragment may transfer it to the Crown for the purposes of the Province on payment by the Crown of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the Crown for the purposes of the Province free from all encumbrances.

(2) Any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879. Bom. V of 1879.

Partition of estate assessed to payment of revenue to Crown or separation of share thereof.

11. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the Crown in any local area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment. V of 1908.

Determination of compensation for purposes of section 10.

12. In determining the compensation for the purposes of section 10 the Collector shall, have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. I of 1894.

Amendment of sections 117A and 117B of Bom. V of 1879.

13. In sections 117A and 117B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely :— Bom. V of 1879.

"Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947," Bom. of 1947.

Provincial Government or local authority not to acquire land so as to leave fragment.

14. Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Provincial Government or any local authority or sold at any sale held under the orders of any Court so as to leave a fragment.

CHAPTER III.

Procedure for Consolidation.

Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

15. With the object of consolidating holdings in any village, mahal or taluka or any part thereof for the purpose of better cultivation of lands therein, the Provincial Government may declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the Provincial Government may appoint a Consolidation Officer who shall proceed to prepare in the prescribed manner a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be.

Scheme to provide for compensation.

16. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. I of 1894.

Amalgamation of public roads etc., within scheme for consolidation of holdings.

17. (*1*) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(*2*) The declaration in sub-section (*1*) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

(*3*) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (*1*), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(*4*) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the Provincial Government, be final.

Revocation of assignments of lands.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place.

Publication of draft scheme.

19. (*1*) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating

to the scheme. The Consolidation Officer shall, after considering the objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Commissioner.

(2) The Consolidation Officer shall also publish the scheme as amended by him.

Confirmation of scheme.

20. (1) If within thirty days of its publication no objections are received to the draft scheme published under sub-section (1) or the amended draft scheme published under sub-section (2) of section 19, as the case may be, the Settlement Commissioner shall confirm the scheme.

(2) If any objections are received to the amended draft scheme published under sub-section (2) of section 19, the Settlement Commissioner shall after taking the objections into consideration submit it with such modifications as he considers necessary to the Provincial Government.

(3) The Provincial Government may either confirm the scheme with or without modifications or refuse to confirm it:

Provided that the Provincial Government shall, if the scheme has been modified by the Settlement Commissioner under sub-section (2) publish it as so modified, and take into consideration the objections, if any, received within thirty days of such publication before acting under this sub-section.

Right to possession of new holdings.

21. (1) Upon the confirmation of the scheme under sub-section (1) or (3) of section 20, the scheme as confirmed shall be published in the *Official Gazette* and also in the prescribed manner in the village or villages concerned, and if all the owners affected by such scheme agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners affected by the scheme do not agree to enter into possession under sub-section (1) they shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of its publication in the *Official Gazette* under sub-section (1) and the Consolidation Officer shall, if necessary, put them in possession of the holdings to which they are so entitled, and for doing so may in the prescribed manner evict any person from any land.

(3) Notwithstanding anything contained in sub-section (2) no owner shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner within fifteen days of the commencement

of the said agricultural year such compensation as is recoverable from him under the scheme.

(*4*) Where an owner fails to comply with the provisions of sub-section (*3*) his right in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner and any other person having an interest in the holding.

Coming into force of scheme.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Certain laws no ban on transfer of holdings.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

Certificate of transfer.

24. (*1*) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (*4*) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme.

XVI of 1908.

(*2*) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

Loans to assist consolidation.

25. For carrying out any of the purposes of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884.

XIX of 1883.

XII of 1884.

Chapter IV.

Effect of Consolidation Proceedings and of Consolidation of Holdings.

Exercise by Consolidation Officer of powers under certain Acts.

26. (*1*) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15.

Bom. V of 1879.

Bom. II of 1906.

Bom. XXIX of 1939.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

(a) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation Officer; and

Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(b) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it:

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(3) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

Stay of proceedings under sections 153 and 155 of Bom. V of 1879, ban on transfer of land during continuance of consolidation proceedings.

27. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

(a) no proceedings under section 153 or 155 of the Bombay Land Revenue Code, 1879, in respect of any land in respect of which a notification has been issued under section 15 shall be commenced; and all such proceedings if commenced shall be stayed; Bom. V of 1879.

(b) no person shall transfer any land in respect of which a notification under section 15 has been issued.

Rights in holdings.

28. Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (4) of section 21.

Transfer of encumbrances.

29. (1) If the holding of an owner included in a scheme of consolidation which has come into force under section 22

is burdened with a lease, mortgage, debt or other encumbrance, such lease, mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint; and the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

(*2*) If the holding to which a lease, mortgage, debt or other encumbrance is transferred under sub-section (*1*) is of less market value than the original holding from which it is transferred, the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(*3*) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any lessee, mortgagee or other encumbrancer entitled to possession into possession of the holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (*1*).

1 of 1894.

30. Where there is a dispute in respect of the apportionment of— Apportionment of compensation or net value in case of dispute.

(*a*) the amount of compensation determined under sub-section (*2*) of section 16 or sub-section (*4*) of section 17;

(*b*) the net value realized under sub-section (*4*) of section 21;

(*c*) the total amount of compensation determined under sub-section (*2*) of section 29,

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may, apply.

31. Notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall— Alienation and sub-division of consolidated holdings.

(*a*) transfer any holding or part thereof except in accordance with such conditions as may be prescribed;

(*b*) except with the permission in writing of the Provincial Government, sub-divide such holding.

32. (*1*) If after a scheme has come into force it appears to the Provincial Government that the scheme is defective on account of an error, irregularity or informality the Provincial Government shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme. Power to vary scheme on ground of error, irregularity or informality.

(2) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the Provincial Government through the Settlement Commissioner.

(3) After receiving the objections under sub-section (2) the Provincial Government may, after making such enquiry as it may think fit, by notification in the *Official Gazette*, make the variation with or without modifications or may not make any variation.

(4) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.

Power to vary or revoke scheme.

33. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

CHAPTER V.

General.

Vesting of powers of Settlement Commissioner.

34. The Provincial Government may, by notification in the *Official Gazette*, invest the Collector with all or any of the powers of the Settlement Commissioner under this Act.

Power of Provincial Government to call for proceedings.

35. The Provincial Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Appeal and revision.

36. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Rules.

37. (1) The Provincial Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules, providing for—

(a) the manner of publication under sub-section (2) of section 4;

(b) the manner of giving public notice under sub-section (3) of section 5;

(c) village records in which fragments shall be entered under sub-section (1) of section 6.

(*d*) the manner in which the intention to make a scheme shall be published and the manner of preparation of the scheme under section 15;

(*e*) the manner of publication under sub-section (*2*) of section 17 of a declaration made under sub-section (*1*) of the said section;

(*f*) the manner in which a draft scheme of consolidation shall be published under sub-section (*1*) of section 19 in the village or villages concerned;

(*g*) the manner of publication of a scheme under sub-section (*1*) of section 21, on its being confirmed;

(*h*) the manner in which a person may be evicted under sub-section (*2*) of section 21;

(*i*) the manner in which compensation recoverable from an owner shall be deposited by him under sub-section (*3*) of section 21;

(*j*) the manner in which right of holding may be allotted under sub-section (*4*) of section 21;

(*k*) the form in which a certificate shall be granted under section 24;

(*l*) the period within which an application shall be made under clause (*b*) of sub-section (*2*) of section 26;

(*m*) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a lease, mortgage, debt or other encumbrance under sub-section (*1*) of section 29;

(*n*) the conditions in accordance with which holdings may be transferred under clause (*a*) of section 31;

(*o*) the manner of publication of a draft variation under sub-section (*1*) of section 32;

(*p*) the manner in which the area and assessment (including water-rate if any) of each reconstituted holding or part of such holding shall be determined;

(*q*) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation;

(*r*) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act;

(*s*) any other matter which is to be or may be prescribed.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

STATEMENT OF OBJECTS AND REASONS.

Agriculture in this Province suffers seriously from the evils of excessive fragmentation and sub-division of holdings. Cultivation of fragments or sub-divisions—

(1) involves waste of time and labour in moving implements, seed, bullocks and equipment from one fragment or sub-division to another,

(2) leads to waste of a substantial area which has to be left uncultivated as boundary strips, and

(3) prevents permanent improvements like bunding, fencing, etc. being undertaken, as the fragment or the sub-division so protected is too small in area to make the undertaking of the improvement economically worth-while and thus leads to progressive deterioration of the fragmented or sub-divided holdings and to reduction in productive capacity.

2. This Bill is proposed to be enacted to remedy these evils as far as possible by preventing further fragmentation and by providing for consolidation of sub-divided holdings.

3. The Bill is divided into two parts ; the first part deals with fragmentation ; and the second, with consolidation of sub-divided holdings. Broadly speaking the provisions of the Bill aim at securing the following :—

Part I.

(1) Settlement, determination and prescription of standard area and registration of fragments below this standard area (Clauses 4 to 6).

(2) Prohibiting transfers of registered fragments except to the holders of contiguous plots (Clause 7) and prohibiting creation of fragments in future (Clauses 8 and 9).

(3) Partition of an estate shall be effected by dividing such estate so as not to create any fragment (Clause 11).

Part II.

(1) Preparation and publication of a scheme of consolidation of holdings for any village, mahal or taluka or any part thereof (Clauses 15 and 19).

(2) Amalgamation, where necessary, of roads, streets, etc. with holdings in a scheme of consolidation (Clause 17).

(3) Equitable adjustment of small differences of area and quality by the award of compensation, if and when necessary (Clause 16).

(4) Grant of certificates showing that the consolidated holding has been allotted to a particular person in pursuance of a scheme of consolidation under the Act (Clause 24).

(5) Grant of remission of land revenue and of loans to enable owners to carry out a scheme of consolidation (Clause 26).

(6) Prohibition of alienation and sub-division of consolidated holdings (Clause 32).

24th August 1946. MORARJI DESAI.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XVIII OF 1946]

(As read for the third time and passed by the Legislative Assembly on the 17th September 1947.)

A Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

[Mr. Morarji R. Desai, M.L.A.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XVIII OF 1946.

A Bill to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

(As read for the third time and passed by the Legislative Assembly on the 17th September 1947.)

(As read for the third time and passed by the Legislative Council on the 18th October 1947.)

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force in such areas and on such date as the Provincial Government may by notification in the *Official Gazette* direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "agricultural year" means the year commencing on the first day of April;

(*2*) "consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings;

(*3*) " Consolidation Officer " means an officer appointed as such under section 15 by the Provincial Government, and includes any person authorised by the Provincial Government to perform all or any of the functions of the Consolidation Officer under this Act ;

(*4*) " fragment " means a plot of land of less extent than the appropriate standard area determined under this Act :

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion ;

(*5*) " land " means agricultural land whether alienated or unalienated ;

(*6*) " local area " means any area notified as such in the *Official Gazette* under section 3 ;

(*7*) " Mamlatdar " shall include a Mahalkari ;

(*8*) " Owner " means in the case of unalienated land the occupant and when such land has been mortgaged, owner means the mortgagor ; in the case of alienated land owner means the superior holder ;

(*9*) " prescribed " means prescribed by rules made under this Act ;

(*10*) " standard area " in respect of any class of land means the area which the Provincial Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section ;

(*11*) words and expressions used in this Act, but not defined, have the meaning assigned to them in the Bombay Land Revenue Code, 1879. Bom V of 1879.

CHAPTER II.

Determination of Local and Standard Areas and Treatment of Fragments.

Determination of local area.

3. The Provincial Government may, after such inquiry as it deems fit, by notification in the *Official Gazette*, specify a village, mahal or taluka or any part thereof as a local area for the purposes of this Act.

Settlement of standard areas.

4. (*1*) The Provincial Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(*2*) The Provincial Government shall by notification in the *Official Gazette* and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (*1*) and invite objections thereto.

Determination and revision of standard areas.

5. (*1*) The Provincial Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (*2*) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(*2*) The Provincial Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (*1*). Such revision shall be made in the manner laid down in section 4 and sub-section (*1*).

(*3*) The Provincial Government shall, by notification in the *Official Gazette* and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (*1*) or revised under sub-section (*2*).

Entry in the Record of Rights.

6. (*1*) On notification of a standard area under sub-section (*3*) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights, or where there is no Record of Rights in such village record as the Provincial Government may prescribe.

(*2*) Notice of every entry made under sub-section (*1*) shall be given in the manner prescribed for the giving of notice under the Bombay Land Revenue Code, 1879, of an entry in the register of mutations.

Bom. V of 1879.

Transfer and lease of fragments.

7. (*1*) No person shall transfer any fragment in respect of which a notice has been given under sub-section (*2*) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

(*2*) Notwithstanding anything contained in the Bombay Tenancy Act, 1939, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

Bom. XXIX of 1939.

Fragmentation prohibited.

8. No land in any local area shall be transferred or partitioned so as to create a fragment.

Penalty for transfer or partition contrary to provisions of Act.

9. (*1*) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(*2*) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the Provincial Government, direct.

Transfer of fragment to Crown.

10. (*1*) Any owner of a fragment may transfer it to the Crown for the purposes of the Province on payment by the Crown of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the Crown for the purposes of the Province free from all encumbrances.

(2) Any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879. Bom. V of 1879.

Partition of estate assessed to payment of revenue to Crown or separation of share thereof.

11. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the Crown in any local area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment. V of 1908.

Determination of compensation for purposes of section 10.

12. In determining the compensation for the purposes of section 10 the Collector shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. I of 1894.

Amendment of sections 117A and 117B of Bom. V of 1879.

13. In sections 117A and 117B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely :— Bom. V of 1879.

"Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947," Bom. of 1947.

Provincial Government or local authority not to acquire land so as to leave fragment.

14. Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Provincial Government or any local authority or sold at any sale held under the orders of any Court so as to leave a fragment.

CHAPTER III.

Procedure for Consolidation.

Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

15. With the object of consolidating holdings in any village, mahal or taluka or any part thereof for the purpose of better cultivation of lands therein, the Provincial Government may declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the Provincial Government may appoint a Consolidation Officer who shall proceed to prepare in the prescribed manner a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be.

Scheme to provide for compensation.

16. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. I of 1894.

Amalgamation of public roads etc., within scheme for consolidation of holdings.

17. (*1*) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(*2*) The declaration in sub-section (*1*) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

(*3*) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (*1*), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(*4*) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the Provincial Government, be final.

Revocation of assignments of lands.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place.

Publication of draft scheme.

19. (*1*) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating

o the scheme. The Consolidation Officer shall, after consi-lering the objections, if any received, submit the scheme vith such amendments as he considers to be necessary, ogether with his remarks on the objections, to the Settle-nent Commissioner.

(2) The Consolidation Officer shall also publish the scheme as amended by him.

Confirmation of scheme.

20. (1) If within thirty days of its publication no objections are received to the draft scheme published under sub-section (1) or the amended draft scheme published under sub-section (2) of section 19, as the case may be, the Settlement Commissioner shall confirm the scheme.

(2) If any objections are received to the amended draft scheme published under sub-section (2) of section 19, the Settlement Commissioner shall after taking the objections into consideration submit it with such modifications as he considers necessary to the Provincial Government.

(3) The Provincial Government may either confirm the scheme with or without modifications or refuse to confirm it:

Provided that the Provincial Government shall, if the scheme has been modified by the Settlement Commissioner under sub-section (2) publish it as so modified, and take into consideration the objections, if any, received within thirty days of such publication before acting under this sub-section.

Right to possession of new holdings.

21. (1) Upon the confirmation of the scheme under sub-section (1) or (3) of section 20, the scheme as confirmed shall be published in the *Official Gazette* and also in the prescribed manner in the village or villages concerned, and if all the owners affected by such scheme agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners affected by the scheme do not agree to enter into possession under sub-section (1) they shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of its publication in the *Official Gazette* under sub-section (1) and the Consolidation Officer shall, if necessary, put them in possession of the holdings to which they are so entitled, and for doing so may in the prescribed manner evict any person from any land.

(3) Notwithstanding anything contained in sub-section (2) no owner shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner within fifteen days of the commencement

of the said agricultural year such compensation as is recoverable from him under the scheme.

(*4*) Where an owner fails to comply with the provisions of sub-section (*3*) his right in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner and any other person having an interest in the holding.

Coming into force of scheme.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Certain laws no ban on transfer of holdings.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

Certificate of transfer.

24. (*1*) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (*4*) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme.

XVI of 1908.

(*2*) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

Loans to assist consolidation.

25. For carrying out any of the purposes of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884.

XIX of 1883.

XII of 1884.

CHAPTER IV.

Effect of Consolidation Proceedings and of Consolidation of Holdings.

Exercise by Consolidation Officer of powers under certain Acts.

26. (*1*) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15.

Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

(*a*) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation Officer; and

Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(*b*) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it:

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(*3*) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

Stay of proceedings under sections 153 and 155 of Bom. V of 1879; ban on transfer of land during continuance of consolidation proceedings.

27. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

(*a*) no proceedings under section 153 or 155 of the Bombay Land Revenue Code, 1879, in respect of any land in respect of which a notification has been issued under section 15 shall be commenced; and all such proceedings if commenced shall be stayed;

Bom V of 1879

(*b*) no person shall transfer any land in respect of which a notification under section 15 has been issued.

Rights in holdings.

28. Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (*4*) of section 21.

Transfer of encumbrances.

29. (*1*) If the holding of an owner included in a scheme of consolidation which has come into force under section 22

is burdened with a lease, mortgage, debt or other encumbrance, such lease, mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint; and the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

(*2*) If the holding to which a lease, mortgage, debt or other encumbrance is transferred under sub-section (*1*) is of less market value than the original holding from which it is transferred, the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(*3*) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any lessee, mortgagee or other encumbrancer entitled to possession into possession of the holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (*1*).

Apportionment of compensation or net value in case of dispute.

30. Where there is a dispute in respect of the apportionment of—

(*a*) the amount of compensation determined under sub-section (*2*) of section 16 or sub-section (*4*) of section 17;

(*b*) the net value realized under sub-section (*4*) of section 21;

(*c*) the total amount of compensation determined under sub-section (*2*) of section 29,

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may, apply.

1 of 1894.

Alienation and sub-division of consolidated holdings.

31. Notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall—

(*a*) transfer any holding or part thereof except in accordance with such conditions as may be prescribed;

(*b*) except with the permission in writing of the Provincial Government, sub-divide such holding.

Power to vary scheme on ground of error, irregularity or informality.

32. (*1*) If after a scheme has come into force it appears to the Provincial Government that the scheme is defective on account of an error, irregularity or informality the Provincial Government shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme.

(*2*) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the Provincial Government through the Settlement Commissioner.

(*3*) After receiving the objections under sub-section (*2*) the Provincial Government may, after making such enquiry as it may think fit, by notification in the *Official Gazette*, make the variation with or without modifications or may not make any variation.

(*4*) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.

Power to vary or revoke scheme.

33. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

CHAPTER V.

General.

Vesting of powers of Settlement Commissioner.

34. The Provincial Government may, by notification in the *Official Gazette*, invest the Collector with all or any of the powers of the Settlement Commissioner under this Act.

Power of Provincial Government to call for proceedings.

35. The Provincial Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Appeal and revision.

36. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Rules.

37. (*1*) The Provincial Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules, providing for—

(*a*) the manner of publication under sub-section (*2*) of section 4 ;

(*b*) the manner of giving public notice under sub-section (*3*) of section 5 ;

(*c*) village records in which fragments shall be entered under sub-section (*1*) of section 6 ;

(*d*) the manner in which the intention to make a scheme shall be published and the manner of preparation of the scheme under section 15;

(*e*) the manner of publication under sub-section (*2*) of section 17 of a declaration made under sub-section (*1*) of the said section;

(*f*) the manner in which a draft scheme of consolidation shall be published under sub-section (*1*) of section 19 in the village or villages concerned;

(*g*) the manner of publication of a scheme under sub-section (*1*) of section 21, on its being confirmed;

(*h*) the manner in which a person may be evicted under sub-section (*2*) of section 21;

(*i*) the manner in which compensation recoverable from an owner shall be deposited by him under sub-section (*3*) of section 21;

(*j*) the manner in which right of holding may be allotted under sub-section (*4*) of section 21;

(*k*) the form in which a certificate shall be granted under section 24;

(*l*) the period within which an application shall be made under clause (*b*) of sub-section (*2*) of section 26;

(*m*) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a lease, mortgage, debt or other encumbrance under sub-section (*1*) of section 29;

(*n*) the conditions in accordance with which holdings may be transferred under clause (*a*) of section 31;

(*o*) the manner of publication of a draft variation under sub-section (*1*) of section 32;

(*p*) the manner in which the area and assessment (including water-rate if any) of each reconstituted holding or part of such holding shall be determined;

(*q*) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation;

(*r*) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act;

(*s*) any other matter which is to be or may be prescribed.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

The following Act of the Bombay Legislature having been assented to by the Governor General on the 17th January 1948 is hereby published for general information.

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. LXII OF 1947.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 29th January 1948.)

An Act to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force in such areas and on such date as the Provincial Government may by notification in the *Official Gazette* direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "agricultural year" means the year commencing on the first day of April;

(*2*) "consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings;

(3) "Consolidation Officer" means an officer appointed as such under section 15 by the Provincial Government, and includes any person authorised by the Provincial Government to perform all or any of the functions of the Consolidation Officer under this Act;

(4) "fragment" means a plot of land of less extent than the appropriate standard area determined under this Act:

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;

(5) "land" means agricultural land whether alienated or unalienated;

(6) "local area" means any area notified as such in the *Official Gazette* under section 3;

(7) "Mámlatdar" shall include a Mahalkari;

(8) "Owner" means in the case of unalienated land the occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land owner means the superior holder;

(9) "prescribed" means prescribed by rules made under this Act;

(10) "standard area" in respect of any class of land means the area which the Provincial Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section;

(11) words and expressions used in this Act, but not defined, have the meaning assigned to them in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

CHAPTER II.

Determination of Local and Standard Areas and Treatment of Fragments.

Determination of local area.

3. The Provincial Government may, after such inquiry as it deems fit, by notification in the *Official Gazette*, specify a village, mahal or taluka or any part thereof as a local area for the purposes of this Act.

Settlement of standard areas.

4. (1) The Provincial Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(2) The Provincial Government shall by notification in the *Official Gazette* and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1), and invite objections thereto.

Determination and revision of standard areas.

5. (*1*) The Provincial Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (*2*) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(*2*) The Provincial Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (*1*). Such revision shall be made in the manner laid down in section 4 and sub-section (*1*).

(*3*) The Provincial Government shall, by notification in the *Official Gazette* and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (*1*) or revised under sub-section (*2*).

Entry in the Record of Rights.

6. (*1*) On notification of a standard area under sub-section (*3*) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights, or where there is no Record of Rights in such village record as the Provincial Government may prescribe.

(*2*) Notice of every entry made under sub-section (*1*) shall be given in the manner prescribed for the giving of notice under the Bombay Land Revenue Code, 1879, of an entry in the register of mutations.

Bom. V of 1879.

Transfer and lease of fragments.

7. (*1*) No person shall transfer any fragment in respect of which a notice has been given under sub-section (*2*) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

(*2*) Notwithstanding anything contained in the Bombay Tenancy Act, 1939, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

Bom. XXIX of 1939.

Fragmentation prohibited.

8. No land in any local area shall be transferred or partitioned so as to create a fragment.

Penalty for transfer or partition contrary to provisions of Act.

9. (*1*) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(*2*) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the Provincial Government, direct.

Transfer of fragment to Crown.

10. (*1*) Any owner of a fragment may transfer it to the Crown for the purposes of the Province on payment by the Crown of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the Crown for the purposes of the Province free from all encumbrances.

(2) Any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879. Bom. V of 1879.

Partition of estate assessed to payment of revenue to Crown or separation of share thereof.

11. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the Crown in any local area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment. V of 1908.

Determination of compensation for purposes of section 10.

12. In determining the compensation for the purposes of section 10 the Collector shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. I of 1894.

Amendment of sections 117A and 117B of Bom. V of 1879.

13. In sections 117A and 117B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely :— Bom. V of 1879.

"Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947," Bom. LXII of 1947.

Provincial Government or local authority not to acquire land so as to leave fragment.

14. Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Provincial Government or any local authority or sold at any sale held under the orders of any Court so as to leave a fragment.

CHAPTER III.

Procedure for Consolidation.

Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

15. With the object of consolidating holdings in any village, mahal or taluka or any part thereof for the purpose of better cultivation of lands therein, the Provincial Government may declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the Provincial Government may appoint a Consolidation Officer who shall proceed to prepare in the prescribed manner a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be.

Scheme to provide for compensation.

16. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. I of 1894.

Amalgamation of public roads etc., within scheme for consolidation of holdings.

17. (1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(4) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the Provincial Government, be final.

Revocation of assignments of lands.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place.

Publication of draft scheme.

19. (1) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating

to the scheme. The Consolidation Officer shall, after considering the objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Commissioner.

(2) The Consolidation Officer shall also publish the scheme as amended by him.

Confirmation of scheme.

20. (1) If within thirty days of its publication no objections are received to the draft scheme published under sub-section (1) or the amended draft scheme published under sub-section (2) of section 19, as the case may be, the Settlement Commissioner shall confirm the scheme.

(2) If any objections are received to the amended draft scheme published under sub-section (2) of section 19, the Settlement Commissioner shall after taking the objections into consideration submit it with such modifications as he considers necessary to the Provincial Government.

(3) The Provincial Government may either confirm the scheme with or without modifications or refuse to confirm it:

Provided that the Provincial Government shall, if the scheme has been modified by the Settlement Commissioner under sub-section (2) publish it as so modified, and take into consideration the objections, if any, received within thirty days of such publication before acting under this sub-section.

Right to possession of new holdings.

21. (1) Upon the confirmation of the scheme under sub-section (1) or (3) of section 20, the scheme as confirmed shall be published in the *Official Gazette* and also in the prescribed manner in the village or villages concerned, and if all the owners affected by such scheme agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners affected by the scheme do not agree to enter into possession under sub-section (1) they shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of its publication in the *Official Gazette* under sub-section (1) and the Consolidation Officer shall, if necessary, put them in possession of the holdings to which they are so entitled, and for doing so may in the prescribed manner evict any person from any land.

(3) Notwithstanding anything contained in sub-section (2) no owner shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner within fifteen days of the commencement

of the said agricultural year such compensation as is recoverable from him under the scheme.

(4) Where an owner fails to comply with the provisions of sub-section (3) his right in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner and any other person having an interest in the holding.

Coming into force of scheme.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Certain laws no ban on transfer of holdings.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

Certificate of transfer.

24. (1) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (4) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme.

XVI of 1908.

(2) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

Loans to assist consolidation.

25. For carrying out any of the purposes of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884.

XIX of 1883.

XII of 1884.

CHAPTER IV.

Effect of Consolidation Proceedings and of Consolidation of Holdings.

Exercise by Consolidation Officer of powers under certain Acts.

26. (1) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15.

Bom. V of 1879.

Bom. II of 1906.

Bom. XXIX of 1939.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

(a) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation Officer; and

Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(b) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it:

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(3) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

Stay of proceedings under sections 153 and 155 of Bom. V of 1879; ban on transfer of land during continuance of consolidation proceedings.

27. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

(a) no proceedings under section 153 or 155 of the Bombay Land Revenue Code, 1879, in respect of any land in respect of which a notification has been issued under section 15 shall be commenced; and all such proceedings if commenced shall be stayed;

Bom. V of 1879.

(b) no person shall transfer any land in respect of which a notification under section 15 has been issued.

Rights in holdings.

28. Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (4) of section 21.

Transfer of encumbrances.

29. (1) If the holding of an owner included in a scheme of consolidation which has come into force under section 22

is burdened with a lease, mortgage, debt or other encumbrance, such lease, mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint; and the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

(2) If the holding to which a lease, mortgage, debt or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any lessee, mortgagee or other encumbrancer entitled to possession into possession of the holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

Apportionment of compensation or net value in case of dispute.

30. Where there is a dispute in respect of the apportionment of—

(a) the amount of compensation determined under sub-section (2) of section 16 or sub-section (4) of section 17;

(b) the net value realized under sub-section (4) of section 21;

(c) the total amount of compensation determined under sub-section (2) of section 29,

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may, apply.

I of 1894.

Alienation and sub-division of consolidated holdings.

31. Notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall—

(a) transfer any holding or part thereof except in accordance with such conditions as may be prescribed;

(b) except with the permission in writing of the Provincial Government, sub-divide such holding.

Power to vary scheme on ground of error, irregularity or informality.

32. (1) If after a scheme has come into force it appears to the Provincial Government that the scheme is defective on account of an error, irregularity or informality the Provincial Government shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme.

(2) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the Provincial Government through the Settlement Commissioner.

(3) After receiving the objections under sub-section (2) the Provincial Government may, after making such enquiry as it may think fit, by notification in the *Official Gazette*, make the variation with or without modifications or may not make any variation.

(4) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.

Power to vary or revoke scheme.

33. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

CHAPTER V.

General.

Vesting of powers of Settlement Commissioner.

34. The Provincial Government may, by notification in the *Official Gazette*, invest the Collector with all or any of the powers of the Settlement Commissioner under this Act.

Power of Provincial Government to call for proceedings.

35. The Provincial Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Appeal and revision.

36. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Rules.

37. (1) The Provincial Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules, providing for—

(a) the manner of publication under sub-section (2) of section 4;

(b) the manner of giving public notice under sub-section (3) of section 5;

(c) village records in which fragments shall be entered under sub-section (1) of section 6;

(*d*) the manner in which the intention to make a scheme shall be published and the manner of preparation of the scheme under section 15;

(*e*) the manner of publication under sub-section (*2*) of section 17 of a declaration made under sub-section (*1*) of the said section;

(*f*) the manner in which a draft scheme of consolidation shall be published under sub-section (*1*) of section 19 in the village or villages concerned;

(*g*) the manner of publication of a scheme under sub-section (*1*) of section 21, on its being confirmed;

(*h*) the manner in which a person may be evicted under sub-section (*2*) of section 21;

(*i*) the manner in which compensation recoverable from an owner shall be deposited by him under sub-section (*3*) of section 21;

(*j*) the manner in which right of holding may be allotted under sub-section (*4*) of section 21;

(*k*) the form in which a certificate shall be granted under section 24;

(*l*) the period within which an application shall be made under clause (*b*) of sub-section (*2*) of section 26;

(*m*) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a lease, mortgage, debt or other encumbrance under sub-section (*1*) of section 29;

(*n*) the conditions in accordance with which holdings may be transferred under clause (*a*) of section 31;

(*o*) the manner of publication of a draft variation under sub-section (*1*) of section 32;

(*p*) the manner in which the area and assessment (including water-rate if any) of each reconstituted holding or part of such holding shall be determined;

(*q*) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation;

(*r*) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act;

(*s*) any other matter which is to be or may be prescribed.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

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